

GRANTED ISSUES

NOTE: THE WORDING OF THE ISSUES IS TAKEN VERBATIM FROM THE PARTIES' PETITIONS FOR DISCRETIONARY REVIEW.

ISSUES GRANTED APRIL 6, 2016

PDR NO.	NAME	COUNTY	OFFENSE
16-0208	BOWMAN, RICHARD MARK	HARRIS	DRIVING WHILE INTOXICATED

1. Upon analyzing the applicability of the equitable doctrine of laches, this Court has established a framework for review under the totality of the circumstances. The court of appeals erred when it did not faithfully apply this framework and, instead, diminished the importance of faded memories and wholly failed to consider appellant's reason for delaying more than seven years in bringing his claim.

2. The court of appeals granted relief for ineffective assistance of counsel because the trial attorney did not investigate the specific stats regarding the detaining officer's overtime pay for impeachment purposes, which it considered a local defense custom. The court of appeals failed to give proper deference to the trial court by ignoring evidence that investigation of this specific officer was not so pervasive as to be a professional standard, failed to actually consider whether such evidence would be admissible, and overlooked that its argument against prejudice on the State's laches claim should preclude prejudice in appellant's ineffective assistance of counsel claim.

ALPHABETICAL LISTING WITHOUT ISSUES

<u>PDR NO.</u>	<u>NAME</u>	<u>DATE GRANTED</u>
15-0967	ACOSTA, GENARO GALVAN, JR.	02/24/16
15-0143	AMBROSE, CYNTHIA	05/20/15
15-0290	ANTHONY, JOHN DENNIS CLAYTON	05/20/15
15-1409	ASBERRY, DAMON LAVELLE	03/09/16
15-1087	BAILEY, LAJUAN CECILE	01/13/16
15-1358-61	BAUMGART, ERIC L.	03/09/16
16-0208	BOWMAN, RICHARD MARK	04/06/16
15-1453	BULLOCK, RICHARD HENRY	03/02/16
15-0992	BURKS, ANTWAIN	11/25/15
15-1480	BYRAM, CAMERON	03/02/16
15-0213	BYRD, THOMAS LEON	05/20/15
14-1341	CARY, STACY STINE	03/25/15
15-0445	CARY, DAVID FREDERICK	07/01/15
15-0681	CLEMENT, DAVID LEE, JR.	09/16/15
15-0077	COLE, STEVEN	04/22/15
15-1549	COPELAND, SHIRLEY	02/24/16
15-1283	CRAWFORD, MILTON RAY	01/27/16
14-1514	DABNEY, RONNIE LEON	03/04/15
15-1094	DARCY, CHRISTOPHER EARL	11/11/15
15-1484	DEEN, PHILLIP DEVON	03/02/16
15-1238	DRUMMOND, JIMMY EARL	01/27/16
15-0429	DURAN, FRANCISCO	07/01/15
15-1369	FEBUS, ALBERT JUNIOR	02/03/16
15-1189	FLORES, MAYRA	01/27/16
15-0212	FURR, CHRIS	06/10/15
15-0887	HANKSTON, GAREIC JERARD	02/03/16
15-0257	HENLEY, GREGORY SHAWN	06/17/15
15-0511	HENRY, ALVIN PETER, JR.	10/07/15
15-0019-22	HILL, ALBERT G., III	06/10/15
15-0794	HOPKINS, ESSIE D.	09/16/15
14-0433	HUSE, HAYDEN	09/17/14
15-0469-72	ISELL, JOHN B.	09/16/15
15-0832	JENKINS, JAMES ALAN	09/16/15
14-1496	JOHNSON, JOE DALE	04/22/15
15-1566	KNELSEN, ANNA	03/02/16
15-0072	LEMING, JAMES EDWARD	04/22/15
15-0480	LONDON, JOSHUA	06/24/15
15-0984	LONG, WENDEE	11/04/15
15-1337	MARTINEZ, ROGER ANTHONY	02/24/16
15-1054/5	METTS, ANTHONY AUSTIN	02/03/16
15-0847/8	MILES, KOJUAN J.	12/09/15
15-0891	MILLER, ARTHUR FRANKLIN, JR.	01/13/16
14-1634	MOORE, AARON JACOB	04/22/15
15-0758	MORGAN, DEWAN	09/16/15
15-1100	PROENZA, ABRAHAM JACOB	01/13/16
15-0974	ROBINSON, OLIN ANTHONY	11/04/15
15-1391	RODRIGUEZ, MIKENZIE RENEE	02/24/16
15-1455	ROY, KELVIN LEE	02/24/16
15-1362	RUIZ, JOSE	03/02/16
15-0372	SANCHEZ, LUIS	07/01/15
14-1505	SCHLITTLER, DAVID	02/25/15
15-0526	SCHUNIOR, VICTOR MANUEL, JR.	09/16/15
15-0597	SHORTT, BERNARD WINFIELD	09/16/15

15-0599	SIMPSON, MARK TWAIN	09/23/15
14-1615	SMITH, WILLIAM aka BILL	02/11/15
15-0122	STEVENSON, ERIC DWAYNE	04/29/15
15-1051	SUTTON, CHRISTOPHER LEE	01/27/16
15-0730	TATE, DALLAS CARL	10/14/15
15-1086	THOMAS, JEREMY	01/27/16
15-0483	TOTTEN, RUBEN	08/26/15
15-0659	WAGNER, PAUL HENRI	11/11/15
14-1429	WALKER, KENNETH NEAL	10/14/15
14-1430	WALKER, SHELLEY	10/14/15
14-0635	WEEMS, DANIEL JAMES	08/20/14
15-1596	WHITE, WILLIAM DEWAYNE	03/23/16
15-1124	WILLIAMS, JAMES EARL	02/10/16
15-0292	WOLFE, JENNIFER BANNER	09/16/15
15-1137	WRIGHT, SIR MELVIN, JR.	01/27/16
15-1317	ZUNIGA, MARY	01/27/16

NUMERICAL LISTING WITH ISSUES GRANTED

14-0433 HUSE, HAYDEN 09/17/14
APPELLANT'S LUBBOCK DRIVING WHILE INTOXICATED

1. After State v. Hardy, does a citizen have standing to challenge the process by which his medical records are obtained?
2. Must the State comply with federal requirements under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to obtain a citizen's medical records, and if it fails to do so, is there any remedy?

14-0635 WEEMS, DANIEL JAMES 08/20/14
STATE'S BEXAR DRIVING WHILE INTOXICATED

1. Are the "established exceptions" to the "warrant requirement" the exclusive way of determining whether a particular warrantless search or seizure is reasonable under the Fourth Amendment?
2. Is a warrantless, nonconsensual search administered in compliance with Transportation Code section 724.012(b) reasonable under the Fourth Amendment?
3. Did the court of appeals err in its interpretation of section 724.012(b) by suggesting that the statute does not dispense with a search warrant?
4. Did the court of appeals err in its conclusion that there were no exigent circumstances?

14-1341 CARY, STACY STINE 03/25/15
**APPELLANT'S COLLIN BRIBERY; ENGAGING IN
ORGANIZED CRIMINAL
ACTIVITY; MONEY LAUNDERING**

1. The State Affirmatively Proved Ms. Cary's Innocence By Proving That The Alleged Bribes Were "Political Contributions."
2. The Evidence Was Insufficient To Show The Requisite Consideration To Support The Bribery Convictions.
3. The Evidence Was Insufficient To Show That Appellant Had The Requisite Intent To Commit Bribery.
4. The Evidence Was Insufficient To Support Ms. Cary's Conviction For Engaging In Organized Criminal Activity And Money Laundering.

14-1429 WALKER, KENNETH NEAL 10/14/15
APPELLANT'S SMITH INJURY TO A CHILD

1. The Court of Appeals erred in finding legally sufficient evidence in this case, and allows this Court to reexamine the issue of factually sufficient evidence from *Brooks v. State*, 323 S.W.3d 893 (Tex. Crim. App. 2010).
2. The Court of Appeals erred in allowing a speculative verdict to stand in contrast to this Court's instructions.

14-1430 WALKER, SHELLEY 10/14/15
APPELLANT'S SMITH INJURY TO A CHILD

1. The Court of Appeals erred in finding legally sufficient evidence in this case, and allows this Court to reexamine the issue of factually sufficient evidence from *Brooks v. State*, 323 S.W.3d 893 (Tex. Crim. App. 2010).
2. The Court of Appeals erred in allowing a speculative verdict to stand in contrast to this Court's instructions.

14-1496 JOHNSON, JOE DALE 04/22/15
**APPELLANT'S WICHITA AGGRAVATED SEXUAL
ASSAULT; INDECENCY
W/CHILD**

1. The Court of Appeals sitting en banc erred in overturning its majority opinion holding that Confrontation and Due Process were offended when the trial court barred cross examination of the State's complaining witness of the eve of trial given: 1) the State's only evidence was this witness' outcry and Appellant's sole defense at trial depended entirely upon the barred cross examination and 2) the State created a false impression of the complaining witness which Appellant was entitled to correct through cross examination.
2. The justices of the Second Court of Appeals disagree as to the application of Confrontation and cross examination of a complaining witness who had molested his younger sister for a number of years before and after the outcry against Appellant.

14-1505 SCHLITTLER, DAVID 02/25/15
APPELLANT'S ANDERSON IMPROPER CONTACT W/VICTIM

1. Did the Twelfth Court of Appeals err by holding that Section 38.111, Penal Code, as applied to Schlittler, does not violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution?
2. Did the Twelfth Court of Appeals err by holding that Section 38.111, Penal Code, as applied to Schlittler, does not violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution?

14-1514 DABNEY, RONNIE LEON 03/04/15
STATE'S WICHITA MANUFACTURE OF A
CONTROLLED SUBSTANCE

1. Did the Memorandum Opinion incorrectly add a notice requirement for rebuttal evidence that the State used to rebut Appellant's defensive theory after Appellant's counsel opened the door to such evidence in voir dire and in opening statement?
2. Did the Memorandum Opinion ignore the Court of Criminal Appeals' directive that a trial judge is afforded almost absolute deference in determining whether a prosecutor acted willfully and thereby improperly substitute its judgment for the trial judge's in finding the prosecutor was engaging in gamesmanship instead of legitimately rebutting a defensive theory?
3. Did the Memorandum Opinion, in its harm analysis, improperly ignore the overwhelming evidence of Appellant's guilt, including the fact that he absconded during trial and was absent for closing arguments at guilt/innocence?

14-1615 SMITH, WILLIAM aka BILL 02/11/15
STATE'S NUECES DRIVING WHILE INTOXICATED

1. Whether the implied consent and mandatory blood draw provisions of the Texas Transportation Code are a constitutionally valid alternative to the warrant requirement.
2. Whether the defendant preserves his Fourth Amendment objection to blood evidence when he fails to object to testimony concerning the results of testing done on that blood and only later objects to admission of the blood sample itself.

14-1634 MOORE, AARON JACOB 04/22/15
STATE'S FORT BEND AGGRAVATED SEXUAL
ASSAULT

2. Does the court of appeals's construction of "the state" in Section 54.02(j)(4)(A), Family Code require dismissal of a case with prejudice without consideration of the factors for oppressive delay in violation of the separation of powers doctrine?

15-0019 HILL, ALBERT G., III 06/10/15
15-0020
15-0021
15-0022
APPELLANT'S DALLAS MAKING FALSE STATEMENT
TO OBTAIN PROPERTY OR
CREDIT; SECURING
EXECUTION OF A DOCUMENT
BY DECEPTION

To establish a prima facie case of selective prosecution in violation of the Fifth and Fourteenth Amendments, and to obtain a hearing under the "presumption of prosecutorial vindictiveness" method, a defendant must provide "some evidence" that shows: (1) the government singled out the defendant for prosecution and has not proceeded against others similarly situated based on the type of conduct for which the defendant is charged; and (2) the government's discriminatory selection is invidious. Once the defendant makes this showing, the burden shifts to the State to justify the discriminatory treatment.

Appellee asks this Court to clarify what constitutes "some evidence" and find that so long as a defendant attaches a proffer of evidence to a motion to dismiss due to prosecutorial misconduct that the trial court in its discretion determines to be a colorable claim of a constitutional violation, the defendant has attached "some evidence," and a trial court should be permitted to conduct a hearing on the motion to dismiss.

Appellee not only attached "some evidence" showing a constitutional violation, but in fact attached "exceptionally clear evidence." As a result, the Court of Appeals erred when it: (1) sustained the State's second issue and concluded that Appellee "did not make the proper showing sufficient to establish a prima facie case..." of the fact that the former elected district attorney of Dallas County engaged in prosecutorial misconduct by allowing himself to be corruptly influenced by Blue in return for indicting Appellee; (2) found that the trial court erred in conducting a hearing on Appellee's motion to dismiss based upon prosecutorial misconduct; (3) vacated the trial court's Order Granting Motion to Dismiss; and (4) remanded the case to the trial court to reinstate the indictments against Appellee.

15-0072 LEMING, JAMES EDWARD 04/22/15
STATE'S GREGG DRIVING WHILE INTOXICATED

1. Must a movement into another lane of traffic be unsafe before it can be deemed a violation of Tex. Transp. Code §545.060(a)?
2. Should a tip be deemed reliable when a person calls police to report erratic driving, provides his first name, remains on the telephone with the dispatcher, and follows the suspect's car until an officer arrives and the officer is able to independently corroborate information the caller provided?
3. Did the court of appeals err by reversing the trial judge's ruling on a motion to suppress that Appellant committed a traffic violation when the same facts objectively demonstrated reasonable suspicion?

15-0077
STATE'S

COLE, STEVEN

GREGG

04/22/15
INTOXICATION MANSLAUGHTER

1. Did the Court of Appeals conduct an incorrect exigent circumstances analysis when it required proof of a "now or never" level of urgency?
2. Were exigent circumstances present to draw Appellant's blood without a warrant when the accident created a substantial period of delay before blood could be drawn, the officer knew that it typically took one to one and a half hours to obtain a warrant, and he suspected the defendant was under the influence of illegal drugs as opposed to alcohol, which has a predictable rate of elimination?
3. Does a warrantless blood draw conducted pursuant to TEX. TRANSP. CODE § 724.012(b) violate the Fourth Amendment?
4. If a warrantless blood draw conducted pursuant to TEX. TRANSP. CODE § 724.012(b) violates the Fourth Amendment, must that evidence be suppressed when, at the time of the search, the statute was presumptively valid and that it dispensed with the warrant requirement?

15-0122
APPELLANT'S

STEVENSON, ERIC DWAYNE
TARRANT

04/29/15
VIOLATING CIVIL
COMMITMENT
REQUIREMENT FOR
SEXUALLY VIOLENT
PREDATOR

1. The convictions on Count I, Count II, and Count III are for the same offense for double jeopardy purposes.
2. The trial court had no jurisdiction in this case because the prior jurisdictional judgment was on appeal and was, therefore, not a final judgment.
3. The trial court erred by denying Appellant's motion to quash the indictment.
4. The trial court erred by denying Appellant's motion for directed verdict.
5. The trial court erred by sustaining the State's relevance objection to Appellant's proffered evidence that the commitment order was on appeal.

15-0143
APPELLEE'S

AMBROSE, CYNTHIA
BEXAR

05/20/15
OFFICIAL OPPRESSION

1. When a trial judge issues findings of fact and conclusions of law that find a defendant suffered egregious harm from unobjected to jury charge error, does applying the Almanza egregious harm standard on appellate review violate and conflict with Texas (Ex parte Wheeler, 203 S.W.3d 317 (Tex. Crim. App., 2006)) and United States Supreme Court (Oregon v. Kennedy, 456 U.S. 667 (1982)) precedent that a reviewing court must defer to a lower court's factual findings?
2. Under the egregious harm standard, does an appellate court violate Texas (Ex parte Wheeler, 203 S.W.3d 317 (Tex. Crim. App., 2006)) and United States Supreme Court (Oregon v. Kennedy, 456 U.S. 667 (1982)) precedent when it ignores a trial court's factual findings and substitutes its own view of the evidence for that of the trial?
3. If the egregious harm standard does apply on direct review in this case, did the appellate court correctly apply the egregious harm standard when it only considered the testimony that supported the state's case and not "the entire jury charge, the state of the evidence, including the contested issues and weight of probative evidence, the argument of counsel and any other relevant information revealed by the record of the trial as a whole" as required by Almanza v. State, 686 S.W.2d 157 (Tex. Crim. App. 1984).

15-0212
APPELLANT'S

FURR, CHRIS

NUECES

06/10/15
POSSESSION OF
CONTROLLED SUBSTANCE

Whether the Court of Appeals erred in holding that, under its view of *Florida v. J.L.*, 529 U.S. 266 (2000), an anonymous tip that a unidentified pedestrian is doing drugs near a homeless shelter, without more, is sufficient to justify a police officer's stop and frisk of a pedestrian the police find near that location?

15-0213
APPELLANT'S

BYRD, THOMAS LEON
McLENNAN

05/20/15
POSSESSION OF CONTROLLED
SUBSTANCE;

**EVADING ARREST OR
DETENTION**

2. Whether a trial court may order a sentence to run consecutively with a future parole revocation.

15-0257 HENLEY, GREGORY SHAWN 06/17/15
STATE'S TARRANT ASSAULT- FAMILY VIOLENCE

Is a person justified in using force against another to prevent an absent third party from possibly using unlawful force in the future?

15-0290 ANTHONY, JOHN DENNIS CLAYTON 05/20/15
**STATE'S BAILEY AGGRAVATED SEXUAL
ASSAULT**

1. When Appellant pled guilty to sexual assault of a child under fourteen, did the court of appeals err by holding that he was ineligible for deferred adjudication because the child was under six, based on an unexplained finding in the judgment that was not pled, supported by the record, or orally pronounced?
2. Did the court of appeals err by finding deficient performance and prejudice due to counsel's advice that Appellant was eligible for deferred adjudication when there was no evidence of how counsel advised Appellant, no evidence of how that advice affected the plea, and Appellant actually received deferred adjudication?
3. Did the court of appeals err by finding ineffective assistance of counsel based on an unexplained finding in the judgment without addressing the State's threshold arguments about the validity of the judgment entry, preservation, and estoppel?

15-0292 WOLFE, JENNIFER BANNER 09/16/15
APPELLANT'S TARRANT INJURY TO A CHILD

1. Whether the Court of Appeals wrongly decided that the Appellant's point of error that the trial court abused its discretion by admitting unreliable expert testimony of abusive head trauma based solely on a constellation of symptoms did not fairly include the issue whether the expert testimony was unreliable given this specific injured party's history.
2. Whether the Court of Appeals wrongly decided that the trial court did not abuse its discretion by admitting unreliable expert testimony of abusive head trauma based solely on a constellation of symptoms.

15-0372 SANCHEZ, LUIS 07/01/15
APPELLANT'S ECTOR ASSAULT- FAMILY VIOLENCE

1. A resolution is necessary of the disagreement amongst the justices of the Appellate Court as to whether a defendant can be convicted of assaulting his spouse based solely on their past dating relationship under Tex. Penal Code Ann. §§ 22.01(b)(2) and Tex. Fam. Code § 71.0021(b).
2. An important question of state law is presented that has not been, but should be, settled by this Court as to whether a defendant can be convicted of assaulting his spouse based solely on their past dating relationship under Tex. Penal Code Ann. §§ 22.01(b)(2) and Tex. Fam. Code § 71.0021(b).

15-0429 DURAN, FRANCISCO 07/01/15
APPELLANT'S CAMERON BURGLARY OF A HABITATION

The Court of Appeals erred in affirming and modifying the judgment of conviction.

15-0445 CARY, DAVID FREDERICK 07/01/15
**STATE'S COLLIN BRIBERY,
MONEY LAUNDERING,
ENGAGING IN ORGANIZED
CRIMINAL ACTIVITY**

Does an appellate court give proper deference to a jury's finding that the State proved---beyond a reasonable doubt---that the predicate bribery payments were not intended to be "political contributions," when that court focuses on only the evidence tending to *negate* the finding, and fails to consider the totality of the evidence in *support* of the finding, including the rational inferences therefrom?

15-0469 ISBELL, JOHN B. 09/16/15
15-0470
15-0471
15-0472

STATE'S

TARRANT

**EVADING ARREST OR
DETENTION, ASSAULT (2 CTS),
DEADLY CONDUCT**

1. Did the court of appeals employ a deficient egregious harm analysis by applying it to two convictions where there was no accomplice witness issue?
2. Did the court of appeals employ a deficient egregious harm analysis where it failed to consider whether related extraneous offense evidence supplied sufficient corroboration of an accomplice's testimony?

15-0480

LONDON, JOSHUA

06/24/15

APPELLANT'S

HARRIS

**POSSESSION OF A
CONTROLLED SUBSTANCE**

The Court of Appeals determined that the constitutional challenge to the Sheriff's fees could not be raised for the first time on appeal. The basis for the challenge was not available to Mr. London until 19 days after the judgment was signed. Did the Court of Appeals err in refusing to consider a challenge that was only available post-trial, in derogation of Landers v. State?

15-0483

TOTTEN, RUBEN

08/26/15

STATE'S

HARRIS

**POSSESSION OF A
CONTROLLED SUBSTANCE**

1. This case should be remanded because an error in the record invalidates the basis for the appeal.
2. Is the possibility that an officer detained the wrong vehicle, without more, determinative of the lawfulness of a detention such that an article 38.23 instruction is required?
3. Is an appellant who identifies no disputed fact issue at trial but raises multiple issues on appeal entitled to the "some harm" standard for preserved charge error?
4. Should the harm analysis for the failure to give an article 38.23 instruction assume the jury would have found in the defendant's favor, or is that the point of the analysis?

15-0511

HENRY, ALVIN PETER, JR.

10/07/15

APPELLANT'S

LAMAR

EVADING ARREST

3. When the State failed to properly link Petitioner to the enhancement paragraphs, did the Sixth District Court of Appeals unreasonably hold that Petitioner and Coleman's testimony (showing that Petitioner has been to prison multiple times) is sufficient to uphold the prior enhancement convictions, and is this ruling in conflict with Prihada v. State [sic]?

15-0526

SCHUNIOR, VICTOR MANUEL, JR.

09/16/15

STATE'S

WEBB

AGGRAVATED ASSAULT

1. Is the limitations period for aggravated assault governed by Article 12.01(7) rather than Article 12.03(d) of the Code of Criminal Procedure?
2. If the limitations period for aggravated assault is governed by Article 12.03(d), does the lesser-included offense with the greater limitations period control when the lesser-included offenses of the aggravated assault include both misdemeanor assault and a felony?

15-0597

SHORTT, BERNARD WINFIELD

09/16/15

APPELLANT'S

DALLAS

BURGLARY OF A HABITATION

The Court of Appeals erred when it dismissed Appellant's appeal for want of jurisdiction because: (1) Texas Code of Criminal Procedure Article 44.02 allows appeals from a criminal action, and under this Court's holding in Bautsch v. Galveston, 11 S.W. 414 (Tex. Ct. App. 1889), a hearing on a motion for shock probation is a criminal action; and (2) the issue appealed was an unconstitutional imposition of restitution, and not the granting of shock probation itself.

15-0599

SIMPSON, MARK TWAIN

09/23/15

APPELLANT'S

DALLAS

ROBBERY

Whether Simpson produced evidence or pointed to evidence in the trial record that substantiated his legal claim in his motion for new trial.

15-0659

WAGNER, PAUL HENRI

11/11/15

APPELLANT'S

DALLAS

**VIOLATING A PROTECTIVE
ORDER**

- | | | |
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| 15-0681 | CLEMENT, DAVID LEE, JR. | 09/16/15 |
| STATE'S | WISE | DRIVING WHILE INTOXICATED |

- | | | |
|----------------|--------------------------|---------------------------------|
| 15-0730 | TATE, DALLAS CARL | 10/14/15 |
| STATE'S | MONTAGUE | POSSESSION OF CONTROLLED |
| | | SUBSTANCE |

15-0758	MORGAN, DEWAN	09/16/15
STATE'S	DENTON	BURGLARY OF A HABITATION

- 15-0794 HOPKINS, ESSIE D. 09/16/15**
APPELLANT'S DALLAS AGGRAVATED ROBBERY

15-0832	JENKINS, JAMES ALAN	09/16/15
STATE'S	MONTGOMERY	ILLEGAL VOTING

- | | | |
|---------|------------------|--|
| 15-0847 | MILES, KOJUAN J. | 12/09/15 |
| 15-0848 | | |
| STATE'S | HARRIS | COMPELLING PROSTITUTION
SEXUAL ASSAULT OF A CHILD |

15-0887	HANKSTON, GAREIC JERARD	02/03/16
APPELLANT'S	HARRIS	MURDER

- | | | |
|--------------------|-------------------------------------|--------------------------|
| 15-0891 | MILLER, ARTHUR FRANKLIN, JR. | 01/13/16 |
| APPELLANT'S | COLLIN | AGGRAVATED SEXUAL |

**ASSAULT,
INDECENCY WITH A CHILD**

Did the Court of Appeals err by finding that trial counsel's deficient performance regarding Appellant's probation eligibility, which Appellant relied upon in waiving his constitutional right to a jury trial, was not prejudicial under Strickland?

**15-0967
STATE'S**

**ACOSTA, GENARO GALVAN, JR.
LIVE OAK**

**02/24/16
POSSESSION OF MARIJUANA**

The court of appeals erred in holding that a reasonable trier of fact could not have concluded beyond a reasonable doubt that the appellant was shown by the evidence to have possessed the contraband that formed the basis for his conviction.

**15-0974
APPELLANT'S**

**ROBINSON, OLIN ANTHONY
JACKSON**

**11/04/15
ASSAULT**

1. The Court of Appeals erred in reversing the order of the trial court on the basis that the trial court lacked jurisdiction to enter the order of "shock probation" after remand from the Court of Appeals.
2. The Court of Appeals erred in reversing the trial court's order on the basis that the trial court lacked subject-matter jurisdiction over the Petitioner's motion for "shock probation" after remand.
3. The Court of Appeals did not have the subject-matter jurisdiction to entertain a direct appeal from a trial court granting continuing jurisdiction community supervision.

**15-0984
STATE'S**

**LONG, WENDEE
DENTON**

**11/04/15
UNLAWFUL INTERCEPTION OF
ORAL COMMUNICATION**

1. Does Penal Code section 16.02 prohibit intercepting and disclosing the contents of an oral communication even when the speaker has no expectation that his words will not be repeated by those present?
2. Does a basketball coach have a justifiable expectation that his pep talk in a girls' locker room will not be secretly recorded by a former player?

**15-0992
APPELLANT'S**

**BURKS, ANTWAIN
FORT BEND**

**11/25/15
TAMPERING WITH EVIDENCE**

Petitioner avers that the Honorable Court of Appeals for the Fourteenth District erred in holding that the Trial Court submitted sufficient evidence of Tampering with Evidence when in fact the evidence did not support the finding that Petitioner "Tampered with Evidence" at all; more specifically, a "CORPSE".

**15-1051
STATE'S**

**SUTTON, CHRISTOPHER LEE
MONTGOMERY**

**01/27/16
IMPROPER RELATIONSHIP
BETWEEN EDUCATOR
AND STUDENT**

1. The Ninth Court of Appeals, in a 2-1 decision, incorrectly interpreted section 21.12(a) of the Penal Code to require the accused to be an official employee of a particular school, rather than the school district, to be considered an "employee of a public or private primary or secondary school."
2. The lower court abandoned the correct standard of review in holding that the jury could not reasonably infer the appellant worked at a particular school where the evidence showed he was required to supervise police activities at that school and he was known to have been physically present on campus while exercising his employment duties.

**15-1054
15-1055
APPELLANT'S**

**METTS, ANTHONY AUSTIN
MIDLAND**

**02/03/16
SEXUAL ASSAULT**

The Eleventh Court of Appeals erred in holding that a district judge who presided over a probation revocation proceeding, adjudicated guilt, and assessed a prison sentence was not constitutionally and statutorily disqualified even though she previously represented the State in the same case by waiving the State's right to a jury trial when the defendant accepted a plea bargain.

15-1086 THOMAS, JEREMY
APPELLANT'S HARRIS

01/27/16
MURDER

The First Court of Appeals erred by holding that erroneously omitting testimony from a jury's request for read-back would only be harmful if the excluded portion "contradicted" the selected excerpt.

15-1087 BAILEY, LAJUAN CECILE
APPELLANT'S HARRIS

01/13/16
FAILURE TO APPEAR

1. The attorney-client privilege belongs to the client and may not be waived without the client's consent. Appellant expressly waived attorney-client privilege but limited the waiver to one extraneous offense. Trial counsel questioned Appellant's previous counsel regarding privileged communications concerning a second extraneous offense without Appellant's consent.
2. Did the Court of Appeals err in determining trial counsel's disclosure was not ineffective assistance of counsel but instead an "implied waiver?"
3. Does implied waiver under the "offensive use" doctrine apply to the general defense of reasonable excuse provided for in Tex. Pen. Code § 38.10?
4. Can implied waiver under Tex. R. Evid. 511 trump Appellant's expressed and specific limitation on the waiver of her attorney-client privilege?
5. Did the Court of Appeals improperly shift the burden to Appellant to prove she did not waive her attorney-client privilege?

15-1094 DARCY, CHRISTOPHER EARL
STATE'S MOORE

11/11/15
BURGLARY OF HABITATION

1. Does a defendant forfeit a Sixth Amendment complaint about the State's attempt to communicate with him without counsel at a critical stage if he offers evidence of the communication and does not object to further testimony about it, and must a court of appeals address preservation of error before reversing a conviction on this basis?
2. If the State violates a defendant's Sixth Amendment rights by attempting to communicate with him without counsel at a critical stage but no evidence of any incriminating response is offered, does reversible error occur when evidence of the mere fact of the violation is admitted?
3. Is it proper to consider unpreserved error in the analysis of harm from a separate error?

15-1100 PROENZA, ABRAHAM JACOB
STATE'S CAMERON

01/13/16
INJURY TO A CHILD

1. Is there a common-law "fundamental error" exception to preservation that exists outside of the framework of *Marin v. State*, 851 S.W.2d 275 (Tex. Crim. App. 1993)?
2. Is a complaint about a judge's comment on the evidence forfeited if not raised at trial?
3. The trial judge's exchange with a witness neither tainted the defendant's presumption of innocence nor vitiated the jury's impartiality, and it was harmless under any standard.

15-1124 WILLIAMS, JAMES EARL
APPELLANT'S McLENNAN

02/10/16
MURDER

Whether Appellant is entitled to dismissal of his indictment in 2012-623-C2, which alleges an offense date of June 12, 1998, on the ground that he is entitled to specific performance of a plea agreement entered into in 2002 pursuant to which the State agreed to refuse any other unfiled case of which they had notice.

15-1137 WRIGHT, SIR MELVIN, JR.
APPELLANT'S DALLAS

01/27/16
FAILURE TO REGISTER
AS SEX OFFENDER

Whether the Court of Appeals incorrectly applied the habeas harmless error analysis in *Ex parte Parrott* and *Ex parte Rich* to Appellant's case on direct appeal.

15-1189 FLORES, MAYRA
APPELLANT'S HARRIS

01/27/16
MURDER

15-1369	FEBUS, ALBERT JUNIOR	02/03/16
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APPELLANT'S**HARRIS****FAILURE TO REGISTER
AS SEX OFFENDER**

The evidence is insufficient to support the conviction for the felony offense of failure to comply with sex offender registration requirements since the evidence conclusively establishes a reasonable doubt as to whether appellant intentionally or knowingly failed to comply with the Texas Sex Offender Registration Program, as charged in the indictment. The Court of Appeals reliance on Robinson v. State, No. PD-0421-14, 2015 WL 4068109 (Tex. Crim. App. July 1, 2015) is in error since the indictment required the State to prove, beyond a reasonable doubt, that appellant intentionally or knowingly failed to provide his anticipated move date and new address.

**15-1391
STATE'S****RODRIGUEZ, MIKENZIE RENEE
BROWN****02/24/16
POSSESSION OF CONTROLLED
SUBSTANCE**

1. Should a court of appeals consider all of the totality of the circumstances, including (a) who initially searched a dorm room, (b) whether law enforcement had to conduct any additional search beyond a search conducted by university officials, and (c) whether a student consented to university officials searching her room, when determining whether the Fourth Amendment was implicated by law enforcement's actions in entering a dorm room?
2. Should a university's duty to provide a safe environment, with an atmosphere conducive to the educational process, and the minimal intrusion by law enforcement be balanced against a college student's Fourth Amendment rights when determining the reasonableness of a dorm room search?
3. The Court of Appeals erred in categorically ruling that the plain view doctrine did not apply because university administrators cannot have actual or apparent authority to consent to law enforcement's entry into a dormitory room.

**15-1409
APPELLANT'S****ASBERRY, DAMON LAVELLE
McLENNAN****03/09/16
MURDER**

The Court of Appeals erred in holding it could not consider the trial Court record when reviewing the Court's findings in a Chapter 64 proceeding, where the record was not formally introduced into evidence at the hearing.

**15-1453
APPELLANT'S****BULLOCK, RICHARD HENRY
HARRIS****03/02/16
THEFT**

Where the evidence may support a conviction either for theft or the lesser-included offense of attempted theft, did the trial court err in denying Appellant's request for an instruction on the lesser-included offense?

**15-1455
APPELLANT'S****ROY, KELVIN LEE
ORANGE****02/24/16
MURDER**

The Court of Appeals erred in holding that the trial court properly denied petitioner's request for an instruction on the lesser-included offense of manslaughter.

**15-1549
STATE'S****COPELAND, SHIRLEY
VICTORIA****02/24/16
POSSESSION OF DANGEROUS
DRUG**

1. Did the Court of Appeals commit reversible error by holding that the State procedurally defaulted on an issue that both the trial court and the Court of Appeals treated as a non-case dispositive issue when the case was first up for appeal?
2. Did the Court of Appeals fail to properly perform the review it was instructed to conduct by the Court of Criminal Appeals?

**15-1480
STATE'S****BYRAM, CAMERON
TARRANT****03/02/16
DRIVING WHILE INTOXICATED
W/OPEN CONTAINER**

1. Whether the Court of Appeals gave proper deference to the trial court's determination of factual issues and application-of-law-to-fact issues that turn on credibility or demeanor?
2. Whether the Court of Appeals properly determined that the police officer's stop did not qualify under the community caretaking exception to the Fourth Amendment's warrant requirement?

3. Whether the Court of Appeals properly determined that the police officer lacked reasonable suspicion to stop the appellant's vehicle?

15-1484
STATE'S

DEEN, PHILLIP DEVON
TAYLOR

03/02/16
POSSESSION OF CONTROLLED
SUBSTANCE

1. Appellee should be estopped from claiming the conviction used to enhance his punishment is void when he pleaded true to the enhancement paragraph at trial.
2. If Appellee is not estopped by his plea of true from arguing on appeal that his prior conviction is void, his case should be remanded to the trial court for a factual determination on that issue.

15-1566
APPELLANT'S

KNELSEN, ANNA
EL PASO

03/02/16
POSSESSION OF MARIJUANA

1. By ruling that Anna Knelsen's sworn writ allegations did not constitute a sufficient basis for vacating her conviction, even though the record conclusively establishes that her guilty plea was not knowingly and voluntarily made and that it resulted from ineffective assistance of counsel, the court of appeals has rendered a decision which conflicts with applicable decisions of the Court of Criminal Appeals and U.S. Supreme Court.

15-1596
APPELLANT'S

WHITE, WILLIAM DEWAYNE
FANNIN

03/23/16
DELIVER OF CONTROLLED
SUBSTANCE IN A DRUG FREE
ZONE

Does Health and Safety Code section 481.134(d) require proof of a culpable mental state to support a jury finding at trial that an offense was committed in a drug-free zone?

16-0208
STATE'S

BOWMAN, RICHARD MARK
HARRIS

04/06/16
DRIVING WHILE INTOXICATED

1. Upon analyzing the applicability of the equitable doctrine of laches, this Court has established a framework for review under the totality of the circumstances. The court of appeals erred when it did not faithfully apply this framework and, instead, diminished the importance of faded memories and wholly failed to consider appellant's reason for delaying more than seven years in bringing his claim.
2. The court of appeals granted relief for ineffective assistance of counsel because the trial attorney did not investigate the specific stats regarding the detaining officer's overtime pay for impeachment purposes, which it considered a local defense custom. The court of appeals failed to give proper deference to the trial court by ignoring evidence that investigation of this specific officer was not so pervasive as to be a professional standard, failed to actually consider whether such evidence would be admissible, and overlooked that its argument against prejudice on the State's laches claim should preclude prejudice in appellant's ineffective assistance of counsel claim.